

REMARKS

This is in full and timely response to the above-identified Office Action. Reexamination and reconsideration in light of the proposed amendments and the following remarks are respectfully requested.

Claim Amendments

In this response the claims have been amended to improve form and syntax for terms such as "the raw image", the "masked image" etc. In addition, independent claims have been amended to change the term "monitoring" to "capturing an image" for the sake of clarification. Support for this amendment comes from within the claims themselves.

Rejections under 35 USC § 112

The rejection of claims 61-65 under 35 USC § 112, second paragraph, as being indefinite is overcome by clarifying changes made to claims 61 and 63. Favorable reconsideration and withdrawal of this rejection is respectfully requested.

Rejections under 35 USC § 103

- 1) The rejection of claims 1-15, 46 and 60-56 as being unpatentable over Yoshii et al. (Yoshii) in view of Dong, is respectfully traversed.

In this rejection it is stated that Yoshii does not explicitly disclose a range determining means. To overcome this admitted shortcoming, Dong is cited as discloses a position sensing detector in conjunction with a range finding element. The rejection quotes column 5, lines 59-65 as supporting this position.

This section of the Dong reference merely discloses that:

By adjusting the value of resistor R11, the user can set the system to sense a target at any position within the range of the system. It should be understood that the distance information represented by the signal V2 can be processed by any well known means to extract distance information. Such well known signal processing means could result in an output that provides a specific distance

measurement, for example, or whether or not the target is within the range of distance selected by the user.

As will be appreciated, Dong neither amounts to disclosure of a range finding element which is used in conjunction with a position sensing detector, nor suggestion that would prompt the hypothetical person of ordinary skill to consider a transfer of teachings to Yoshii. Accordingly, in light of the admission that Yoshii does not disclose a range finding arrangement renders the possibility of the claimed subject matter being realized non-existent.

The rejection is further deemed untenable in that the rejection suggests that Yoshii "arguably implies" the use of a range determining means. However, if this were (*arguendo*) to be the case, which has not been established, then the need to transfer teachings from another reference is even further diminished – viz., why bother considering adding something that is "arguably" already there?

It is also submitted that proper motivation for the purportedly obvious combination has not been established. The rejection states that Yoshii and Dong are analogous art since they are from a similar problem solving area in that each involves position measurement and that combining the references would have been motivated to incorporate the range finding element and position sensing combination of Dong with the position sensing device as disclosed in Yoshii in order to derive the benefit of the combination.

A *prima facie* case of obviousness is not established. All that is established is that the references pertain to similar or analogous art, and that if the combination were to be made then an alleged benefit would be purportedly derived.

This is not motivation as per the statutory requirement of § 103. In a nutshell, in order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be able to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered.

It is submitted that for the hypothetical person of ordinary skill to study Yoshii and Dong in their entirety and, absent any suggestion/directives from the

references, conclude that a combination would result in an improvement, would in fact represent impermissible inventive activity. It is not proper to bootstrap a rejection by asserting that if a combination or teachings were to be made then the benefit which would be purportedly realized (after the fact) would be the reason to make the combination in the first place.

In fact, in rejecting claims under 35 U.S.C. §103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to **provide a reason why one having ordinary skill in the pertinent art** would have been **led to modify** the prior art or to combine prior art references to arrive at the claimed invention. Such **reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art.** *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

As noted above, some reason must be provided for the hypothetical person of ordinary skill to look to the art such as Yoshii and Dong to consider the need which will motivate a combination. If there is no problem found then it can be concluded that there is no reason to consider other art and to contemplate a transfer of teachings from one reference to another.

"The mere fact that references can be combined or modified does not render the resultant combination obvious **unless the prior art also suggests the desirability of the combination.** *In re Mills*, 916 F.2d

680, 16 USPQ2d 1420 (Fed. Cir. 1990)." M.P.E.P. §
2143.01 (Emphasis added)

The invention recited in claim 1

The invention recited in claim 1 is as follows:

A visual displacement sensor, comprising:
a light emitting device for impinging a line beam onto an
object to be measured at a prescribed angle;
a two-dimensional imaging device for capturing an image
of the object to be measured, on which the line
beam is impinged, from a different angle;
measurement object range defining means for defining one
or more than one measurement object range within
a field of view of the two-dimensional imaging
device;
measurement point coordinate determining means for
determining one or more than one measurement
point coordinate contained in the defined
measurement object range according to the image
captured by the two-dimensional imaging device;
and
displacement measuring means for measuring a desired
displacement according to the determined one or
more than one measurement point coordinate.

The 2nd paragraph under the heading "Brief Summary of the Invention" of
the instant specification discloses that:

According to this structure, even when a spurious reflective
line beam image appears within the field of view of the two-
dimensional imaging device due to an improper
measurement condition such as exterior light, and the
number of measurement point coordinates exceeds an
expected number, a desired displacement can be brought

back into a measurable state by using a displacement measurement algorithm incorporated in the sensor simply by the operator defining a measurement object range so as to exclude the light image due to the external light.

The "measurement object range defining means" and "measurement point coordinate determining means" recited in claim 1 relate to this description. In other words, according to claim 1, measurement object range defining means defines a measurement object range within a field of view of the two-dimensional imaging device. Figure 4 of the present application shows some exemplary modes of defining measurement object ranges. In a preferred embodiment, a measurement object range defined within the field of view of the two-dimensional imaging device can be monitored on the monitor screen (Figure 12) via image memory corresponding to the field of view of the two-dimensional imaging device (Figure 11). Further, a measurement object range can be defined through operation on the monitor screen (Figures 17-19).

Also according to claim 1, the measurement point coordinate determining means determines a measurement point coordinate contained in the defined measurement object range according to an image captured by the two-dimensional imaging device. The measurement object range is defined within a field of view of the two-dimensional imaging device. Therefore, the determined measurement point coordinate is within a field of view of the two-dimensional imaging device. An example of a measurement point coordinate is shown in Figure 7 as a peak position of a line beam light image (P_x , P_y).

(Re paragraph No. 6)

The rejection states that, "Yoshii discloses that various coordinate information may be extracted from the signal, thus disclosing a coordinate determining means (see Fig. 16A, 16B, 17 and column 10, lines 23-36)". However, the Applicants disagree.

In Fig. 16A and 16B of Yoshii, the y-axis represents "Coordinates on Detection Surface". This detection surface refers to the detection surface of the two-dimensional sensor 219 (column 10, lines 23-26). The two-dimensional sensor

219 is shown in Fig. 15. The two-dimensional sensor 219 is disposed on a plane optically conjugate with the stop 225, and a light intensity distribution of stop 225 is formed on the surface of the two-dimensional sensor 219 (column 9, lines, 29-39). Therefore, the light intensity distribution on the two-dimensional sensor 219 is not affected by displacement of wafer 205 in the axis AX direction, but affected only by slant of wafer 205 (column 10, lines 10-21). As described earlier, the measurement point coordinate determining means is used for determining a coordinate within the field of view of the two-dimensional imaging device to be used in displacement measurement. This is fundamentally different from the claimed subject matter.

It is therefore submitted that Fig. 16 of Yoshii, while showing the coordinates on the detection surface of the two-dimensional sensor 219 has no relevance with respect to the claimed measurement coordinate determining means.

In Fig. 17 of Yoshii, the y-axis denotes wafer surface coordinates, and the x-axis denotes height information. In the slanted position as indicated by broken line representing resist surface level, a measurement error occurs as indicated by the solid line representing focus measurement value. The wafer surface coordinate in Fig. 17 is a fixed coordinate with respect to the wafer surface. On the other hand, the measurement point coordinate of the two-dimensional imaging device which is claimed, is a fixed coordinate with respect to the field of view of the two-dimensional imaging device. The point on the measurement object that corresponds to a specific measurement point coordinate, changes when relative positional relationship between the measurement object and the two-dimensional imaging device changes.

Thus, the claimed measurement point coordinate is not fixed on the measurement object. The measurement point coordinate determining mean of claim 1, for example, has no relevance with determining coordinate within a fixed coordinate system on the measurement object. Therefore, Fig. 17 of Yoshii has no relevance with the claimed measurement point coordinate determining means.

It is therefor submitted that the claimed subject matter such as set forth in claim 1, is not suggested by the Yoshii disclosure.

In addition, as noted above, Dong does not contain any disclosure of a range finding element per se. The "range" referred to in Dong, is "the range of the system" (column 5, lines 58-59) and "the range of distance" (column 5, lines 64-65). In other words, it refers to the range of measurable distance by the system, and it does not refer to a region individually set within measurable range. Therefore, the "range" of Dong has no relevance with respect to the claimed "measurement object range within a field of view of the two-dimensional imaging device".

(Re paragraph No. 7)

It is respectfully submitted that dependent claims 2-4 are non-obvious for the same reasons that claim 1 is non-obvious.

The tenor of the rejection suggests that there is a misunderstanding that the light emitted region on the measurement object of Yoshii corresponds to the measurement object range set forth in claims 2-4. In dependent claims 2-4, the position and length that can be set in prescribed direction, is the position and length of the measurement object range. As it is set forth in claim 1, this measurement object range is defined within the field of view of the two-dimensional imaging device, and not on the measurement object.

(Re paragraph No. 8)

The subject matter of dependent claims 5 and 14 is submitted to be non-obvious for the same reasons as set forth *supra*. In particular, Yoshii does not disclose a measurement point coordinate determining means.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. Accord M.P.E.P. § 706.02(j).

Further, the rejection states that, "Yoshii discloses that the system may be used for inspecting photomasked substrates". However, the mask referred to here is a mask for creating circuits/elements on the wafer. The mask in claims 5 and 14 refers to mask applied to images captured by the two-dimensional imaging device,

and has no relevance whatsoever to a physical mask for creating circuits on the wafer.

(Re paragraph No. 9)

Claim 6 is non-obvious over the art applied. As pointed out above, Yoshii does not disclose a measurement point coordinate determining means.

Further, the rejection states that, "Yoshii discloses an image comparator means for analyzing the images output from the CCD". However, Yoshii compares the peak value of the CCD waveform with the CCD saturation level. In other words, what is compared in Yoshii's invention is the signal strength, and the object of the comparison is to control accumulation time of the CCD. On the other hand, what is compared in claim 6 is the provisionally determined measurement point coordinate and measurement object range. If the provisionally determined measurement point coordinate exist within the measurement object range, then the provisionally determined measurement point coordinate is finally determined as the measurement point coordinate. Reference is made to Figure 22 and its description in the specification.

It is therefore submitted that there is no relevance between Yoshii's disclosure and claim 6 with regards to what is compared, and the object of the comparison.

(Re paragraph 10)

It is submitted that claims 7, 9, 11, and 13 are also non-obvious in light of the teachings of Yoshii and Dong.

Yoshii's apparatus does not comprise an image monitor, and does not disclose or suggest that Yoshii's apparatus edits images. It is submitted that displaying images on image monitor and editing images is not usually carried out with displacement sensors.

It is further submitted that the rejection merely points out that processing units are capable of editing images and that software for editing images are widely known. However, utilizing such techniques in displacement sensors are neither

disclosed nor suggested in any of the cited references and there are no teachings which might prompt any consideration of the same in the Yoshii arrangement.

(Re paragraph No. 11)

The rejection of claims 8 and 10 is traversed.

The fact that Yoshii's photomask has no relevance to the masked image referred to in claim 10 is already discussed above in connection with claims 5 and 14.

The rejection states that "Yoshii discloses that the image may correspond to a waveform". However, Yoshii merely points out that CCD outputs waveforms, which must be considered to be a norm. Claims 8 and 10 of the present application require that the line bright waveforms can be displayed on the image monitor. Such disclosure or suggestion cannot be found in Yoshii.

(Re paragraph No. 12)

It is submitted that the independent claim 1 is non-obvious from Yoshii and Dong, dependent claim 12 is also non-obvious.

Further, the boundary of the measurement object range referred to in claim 12, is set within the field of view of the two-dimensional imaging device (refer to claim 1), and therefore the position of the boundary is not fixed on the measurement object. Yoshii's boundary of the measurement object, as pointed out in the rejection, is a physical structure on the substrate of the measurement object. Therefore, Yoshii's boundary has no relevance whatsoever to the boundary set forth in claim 12.

(Re paragraph No. 13)

Since the independent claim 1 is non-obvious from Yoshii and Dong, dependent claim 15 must also be non-obvious.

Yoshii's apparatus includes a CCD. However, it is not a camera used in connection with displaying images to people, and thus it is non-obvious to provide an image monitor in the apparatus of Yoshii.

(Re paragraph No. 14)

Independent claim 46 is patentable over the art for at least the reasons set forth above in connection with claim 1.

(Re paragraph 15)

The rejection is silent as to the defined range moving means which is claimed. This oversight is deemed to render the rejection of claim 60 untenable inasmuch as each and every one of the claimed elements must be addressed. As pointed out above, in order to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

(Re paragraph No. 16)

It is submitted that since the independent claim 60 is non-obvious in light of Yoshii and Dong, dependent claims 61-63, and 65 are also non-obvious.

The rejection is further traversed in that it contains assertions with respect to image comparator means. However, none of claims 61-63, and 65 recite image comparator means.

In addition, the rejection further contains reference to a range finding element. However, as noted above, there is no disclosure of such an element per se in either of the references that have been applied. Therefore, the assertion that the "combination of the range finder and comparator would be able to track the changes in displacement of the substrate" is not supported by either reference or any facts which have been established in this rejection.

The rejection also asserts that it has been known to use the image data from a series of measurements to track the movement of substrates. However, in claims 61, 62, and 65, "tracking" pertains to "moving the measurement object range, corresponding to a surface which forms a pair with the reference surface, in the direction of displacement measurement following the movement of the reference surface". In claim 63, tracking refers to "the defined range moving means moves a pair of measurement object ranges respectively defined on either side of the step boundary line (on the measurement object) in a direction perpendicular to

the direction of displacement measurement following the movement of the step boundary line". Such techniques are neither disclosed nor suggested by the art of record.

(Re paragraph No. 17)

It is submitted that since the independent claim 60 is non-obvious in view of Yoshii and Dong, dependent claim 64 also must be non-obvious.

At the very least, Yoshii neither discloses nor suggests that, "the determination that the step boundary line has moved is made in response to a movement of an intersection between the measured displacement along the length of the line beam and a prescribed displacement threshold value in a direction perpendicular to the direction of displacement measurement."

- 2) The rejection of claims 16-45 and 47-59 under 35 USC § 103(a) as being unpatentable over Yoshii in view of Dong and further in view of Nozaki, is respectfully traversed.

The rejection is traversed for the same reasons advanced with respect to claim 1. That is to say, the mere fact that the three references are from analogous art and allegedly come from the same problem solving area does not amount to motivation.

The rejection is further traversed in that it is acknowledged that "neither Yoshii nor Dong explicitly disclose that the graduation value can be adjusted at various coordinate points" and that the introduction of Nozaki does not obviate this shortcoming.

More specifically, Nozaki discloses an apparatus for performing multi-level rounding correction of reference images used for pattern inspection for integrated semiconductor circuits and the like. However, it is submitted that a need to consider the Nozaki teachings does not flow from either of the Yoshii or Dong references. In fact, as noted above, it is far from clear if a combination of Yoshii and Dong would occur at all.

Indeed there is no suggestion that the systems are defective in any way and therefore no particular reason available to the hypothetical person of ordinary skill to consider the teachings of Nozaki in combination therewith.

As recognized in *In re Sponnoble* (CCPA) 160 USPQ 237, and in *In re Nomiya* (CCPA) 509 F.2d 566; 1975 CCPA LEXIS 185; 184 USPQ (BNA) 607, a patentable invention, within ambit of 35 USC 103, may result even if an inventive entity has, in effect, merely combined features, old in the art, for their known purpose, without producing anything beyond results inherent in their use. These cases established that it is necessary to inquire as to reasons for making the combination and that a patentable invention may lie in discovery of source of problem even though the remedy may be obvious once the source of problem is identified - this being a part of the "subject matter as a whole" which should always be considered in determining the obviousness of an invention under § 103.

More specifically, it was established in at least *In re Nomiya* (CCPA) 509 F.2d 566; 1975 CCPA LEXIS 185; 184 USPQ (BNA) 607 that a person of ordinary skill in the art, at the time of the invention, would not have expected the problem which was overcome, to have existed. As a result, in light of this absence of any knowledge of the problem in question, it was determined that it was not proper to conclude that the claimed subject matter would have been obvious to the hypothetical person of ordinary skill in the art.

It is submitted that it is the knowledge of a problem that provides a reason for a person of ordinary skill, who must proceed with a total lack of any knowledge of the claimed subject matter and without any inventive activity, to apply his or her skill to the solution. Without this knowledge, the person of ordinary skill is without motivation and thus would not, in this situation, be able to proceed to combine the teachings of Yoshii and Dong in the manner purported to be obvious in this office action. That is to say, the lack of any disclosure and therefore the lack of any knowledge of the problem, which has been discovered by the inventive entity named on the instant application, would leave the person of ordinary skill with no motivation to consider a transfer of teachings from Yoshii to Dong.

(Re paragraph No. 19)

It is submitted that claim 16 recites a displacement sensor in which the measurement object range within the field of view of the two-dimensional imaging device, at least one line beam light image gradation, is adjusted if the corresponding measurement object range contains one or more line beam images.

Inasmuch as it has not been established that basic condition can even exist as a result of a combination of Yoshii and Dong, it is beyond reasonable expectation that the hypothetical person of ordinary skill would consider the teachings of Nozaki which pertain to the adjustment of image gradation in connection with such a system.

(Re paragraph No. 20)

The rejection of claim 17 is not tenable. The assertions with respect to the photomask made in connection with claims 5 and 14 above, are reiterated. The rejection of claim 17 is therefore traversed for the same reasons set forth *supra*.

(Re paragraph No. 21)

The rejection of claims 18 and 26 based on the assertions pertaining to the image comparator are traversed for the same reasons as advanced above in connection with claim 6.

(Re paragraph No. 22)

Since the independent claim 16 is non-obvious from Yoshii, Dong, and Nozaki, dependent claims 19, 21, 23, 25 and 27 are also non-obvious for at least the same reasons. The position taken in this rejection with respect to the image editing is traversed on the same grounds as advanced *supra* with respect to the rejection of claims 7, 9, 11, and 13.

(Re paragraph No. 23)

It is submitted that the rejection of claims 20 and 22 is not tenable in at least that independent claim 16 is non-obvious from Yoshii, Dong, and Nozaki. Further, the assertions concerning the photomask are traversed on the same grounds advanced in connection with the rejection of claims 5 and 14.

(Re paragraph No. 24)

It is submitted that independent claim 16 is non-obvious in view of Yoshii, Dong, and Nozaki. Accordingly, dependent claim 24 is also non-obvious. The assertions regarding the boundary of the substrate are traversed on the same grounds as those advanced in connection with the rejection of claim 12.

(Re paragraph No. 25)

Since the independent claim 16 is non-obvious from Yoshii, Dong, and Nozaki, the dependent claim 26 is also non-obvious. In traverse of the assertions regarding the photomask, the same argument advanced in connection with the rejection of claims 5 and 14 is reiterated.

(Re paragraph No. 26)

Since the independent claim 16 is non-obvious from Yoshii, Dong, and Nozaki, the dependent claims 28 and 29 are also non-obvious. In connection with the assertions relating to the display, the same arguments presented in defense of claim 15 are reiterated.

(Re paragraph No. 27)

Since the independent claim 16 is non-obvious from Yoshii, Dong, and Nozaki, the dependent claims 30 and 31 are also non-obvious. In addition the arguments advanced in connection with claims 61-63, and 65 are reiterated.

(Re paragraph No. 28)

For the same reasons advanced with respect to the rejection of claim 16, claims 32 and 33, are submitted to be non-obvious in light of Yoshii, Dong and Nozaki.

(Re paragraph No. 29)

Since the independent claim 32 is non-obvious from Yoshii, Dong, and Nozaki, claims 34 and 42 which depend therefrom are deemed non-obvious. The assertions pertaining to the image comparator are traversed on the same grounds as those advanced in connection with the rejection of claim 6. Additionally, the

position taken in this rejection with respect to the photomask is traversed on the same basis as the subject matter of claims 5 and 14.

(Re paragraph No. 30)

Since independent claim 32 is non-obvious in light of Yoshii, Dong, and Nozaki, it follows that dependent claims 35, 37, 39, 41 and 43 are also non-obvious. The assertions made in connection with the image editing are traversed using the same argument advanced in connection with the rejection of claims 7, 9, 11, and 13.

(Re paragraph No. 31)

Since the independent claim 32 is non-obvious in light of Yoshii, Dong, and Nozaki, the dependent claims 36 and 38 are also non-obvious. In connection with the photomask, the same arguments advanced in connection with claims 5 and 14 are reiterated.

(Re paragraph No. 32)

Since independent claim 32 is non-obvious in light of Yoshii, Dong, and Nozaki, dependent claim 40 is also non-obvious. The arguments advanced in connection with claim 12 are also used in traverse of the assertions made in connection with the boundary of the substrate.

(Re paragraph No. 33)

Since the independent claim 32 is non-obvious in light of Yoshii, Dong, and Nozaki, dependent claims 44 and 45 are also non-obvious. The same arguments advanced in connection with claim 15 are also advanced with respect to the assertions pertaining to the claimed display issues.

(Re paragraph No. 34)

Since the independent claim 46 is non-obvious in light of Yoshii, Dong, and Nozaki, dependent claim 47 is also non-obvious. In connection with the assertions made with respect to the gradation adjustment, the same argument made with respect to the rejection of claim 16 are reiterated.

(Re paragraph No. 35)

Since the independent claim 46 is non-obvious from Yoshii, Dong, and Nozaki, the dependent claim 48 is also non-obvious for at least the same reasons. In addition, the issues relating to the image comparator means are traversed for the same reasons advanced in connection with claim 6. The position taken with respect to the photomask, is also reiterated in connection with claims 5 and 14.

(Re paragraph No. 36)

It is submitted that, since independent claim 46 is non-obvious from Yoshii, Dong, and Nozaki, the dependent claims 49, 51, 53, 55 and 57 are also non-obvious for the same reasons. In connection with the image editing issues the same arguments advanced with respect to claims 7, 9, 11, and 13 are reiterated.

(Re paragraph No. 37)

Since the independent claim 46 is non-obvious in view of Yoshii, Dong, and Nozaki, dependent claims 50 and 52 are also non-obvious. The assertions concerning the photomask are traversed on the same grounds as advanced in connection with claims 5 and 14. The assertions relating to waveform are traversed for the same reasons as advanced in connection with claims 8 and 10.

(Re paragraph No. 38)

Dependent claim 54 is patentable for at least the same reasons that independent claim 46 is non-obvious. The assertions regarding the boundary of the substrate are traversed on the same grounds as the rejection of claim 12.

(Re paragraph No. 39)

It is submitted that independent claim 46 is non-obvious in light of Yoshii, Dong, and Nozaki. Accordingly, dependent claim 56 is also non-obvious for at least the same reasons.

The assertions made with respect to the image comparator means are traversed on the same grounds advanced in connection with claim 6. The assertions made in connection with the claimed photomask are traversed on the same grounds as the rejection of claims 5 and 14.

(Re paragraph No. 40)

It is submitted that since independent claim 46 is non-obvious in light of Yoshii, Dong, and Nozaki, dependent claims 58 and 59 are also non-obvious. In addition, it is submitted that the assertions regarding the display are improper for at least the same reasons advanced in connection with claim 15.

Conclusion

It is respectfully submitted that the rejections are not tenable and that they should be withdrawn for at least the reasons advanced above. Reconsideration and allowance of this application is courteously solicited.

Respectfully submitted,

By

Date August 28, 2003

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5485

Facsimile: (202) 672-5399

William T. Ellis
Registration No. 26,874

Keith J. Townsend
Registration No. 40,358